

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**ASTRAZENECA AB, ASTRAZENECA
PHARMACEUTICALS LP,
*Plaintiffs-Appellants***

v.

**MYLAN PHARMACEUTICALS INC., KINDEVA
DRUG DELIVERY L.P.,
*Defendants-Appellees***

2023-1164

Appeal from the United States District Court for the Northern District of West Virginia in Nos. 1:18-cv-00193-IMK-RWT and 1:19-cv-203-IMK-RWT, Judge Irene M. Keeley.

**ASTRAZENECA AB, ASTRAZENECA
PHARMACEUTICALS LP,
*Plaintiffs-Appellees***

v.

**MYLAN PHARMACEUTICALS INC., KINDEVA
DRUG DELIVERY L.P.,
*Defendants-Appellants***

2023-1267

Appeal from the United States District Court for the Northern District of West Virginia in No. 1:22-cv-00035-JPB-RWT, Judge John Preston Bailey.

ON MOTION

PER CURIAM.

O R D E R

Mylan Pharmaceuticals Inc. and Kindeva Drug Delivery L.P. (collectively, “Mylan”) move to (1) expedite briefing and argument in Appeal No. 2023-1267 and to treat that appeal as a companion case with Appeal No. 2023-1164; and (2) stay the final judgment in Appeal No. 2023-1267 pursuant to Rule 8 of the Federal Rules of Appellate Procedure. AstraZeneca AB and AstraZeneca Pharmaceuticals LP (collectively, “AstraZeneca”) oppose.

Rule 8(a)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant a stay pending appeal. Our determination is governed by four factors: (1) whether the movant has made a strong showing of a likelihood of success on the merits; (2) whether the movant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *See Nken v. Holder*, 556 U.S. 418, 434 (2009).

Based on the papers submitted and without prejudicing the ultimate disposition of the appeal, we conclude that Mylan has not established entitlement to a stay. The court, however, will expedite the appeal.

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Accordingly,

IT IS ORDERED THAT:

(1) Mylan's Rule 8 motion is denied. The temporary stay entered on December 21, 2022, is lifted.

(2) The motion to expedite is granted to the following extent: (a) in Appeal No. 2023-1267, AstraZeneca's response brief is due no later than February 9, 2023; Mylan's reply brief is due no later than February 16, 2023; the joint appendix is due no later than February 17, 2023; and (b) Appeal Nos. 2023-1164 and 2023-1267 shall be considered companion cases and set for argument before the same panel on March 8, 2023, at 10:00 AM, superseding the notice of oral argument for Appeal No. 2023-1164 issued on December 9, 2022.

FOR THE COURT

January 13, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court